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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/049,200	08/07/2002	Hartmut Hoehne	CM2215F	8077

27752 7590 06/18/2004

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INTELLECTUAL PROPERTY DIVISION  
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6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER

HAMLIN, DERRICK G

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/049,200

Applicant(s)

HOEHNE ET AL.

Examiner

Derrick G. Hamlin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 12 is/are rejected.
- 7) ☒ Claim(s) 3-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 6/19/2002 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office. It has been placed in the application file, but the information referred to therein has not been considered. The IDS cites 2 copending applications, but fails to cite the references disclosed in the 371 application.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Evaluations of level of ordinary skill in the art requires consideration of factors such as various prior art approaches employed, types of problems encountered in the art, rapidity with which innovations are made, sophistication of technology involved, educational background of those actively working in the field, commercial success, failure of others, and the inventor's educational level.

The "person having ordinary skill" in this art has the capability of understanding the scientific and engineering principles applicable to the claimed invention. The references of record in this case reasonably reflect this level of skill.

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Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hitchin et al. (US 4,491,172 A). Hitchin discloses a container that holds a heat storage medium (abstract). Preferably the heat storage medium constitutes sodium thiosulphate in the alpha-pentahydrate phase. However, other compounds combined with a second phase, such as sodium acetate trihydrate as in claim 2, or ammonium nitrate, magnesium chloride hexahydrate and magnesium nitrate hexahydrate as in claim 4, or paraffin or waxes as in claim 12, may be used. (col. 3, lines 1-19) A soluble additive material is preferably dissolved in the liquid heat storage medium. The soluble additive material controls the size and habit of the crystals produced in the heat storage medium. Said soluble additive material is preferably disodium hydrogen phosphate and trisodium phosphate and is maintained between approximately two percent (2%) and four percent (4%) by weight. The potassium and ammonium analogs may be respectively used instead of disodium hydrogen phosphate and trisodium phosphate. (col. 3, lines 20-40).

The reference is anticipatory.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Evaluations of level of ordinary skill in the art requires consideration of factors such as various prior art approaches employed, types of problems encountered in the art, rapidity with which innovations are made, sophistication of technology involved, educational background of those actively working in the field, commercial success, failure of others, and the inventor's educational level.

The "person having ordinary skill" in this art has the capability of understanding the scientific and engineering principles applicable to the claimed invention. The references of record in this case reasonably reflect this level of skill.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hitchin et al. (US 4,491,172 A). The reference teaches a sodium thiosulphate in the alpha-pentahydrate phase may be combined with a second phase, such as sodium acetate trihydrate and 2-4 % by weight of a soluble additive material controls the size and habit of the crystals produced in the heat storage medium (col. 3, lines 1-25 and 35-38).

The reference fails to teach all of the instantly claimed compounds in the instantly claimed amounts.

Although the reference fail to teach the use of the instantly claimed compounds in the instantly claimed amounts, it does teach that 2-4 % by weight of a soluble additive material may be used with a sodium thiosulphate in the alpha-pentahydrate phase and sodium acetate trihydrate. The most obvious mix ratio for two compounds would be a 1:1 ration and claim 2 allows for a 50wt % of each compound.

Therefore it would have obvious to one of ordinary skill at the time the invention was made to create the instantly claimed heat accumulating composition in view of the

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references teaching of a composition comprising 2-4 % by weight of a soluble additive material and sodium thiosulphate in the alpha-pentahydrate phase and sodium acetate trihydrate in a 1:1 ration.

### ***Allowable Subject Matter***

Claims 3-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The reference fails to teach all of the instantly claimed compounds in the instantly claimed amounts and there is no suggestion or teaching to use the instantly claimed compounds in the instantly claimed amounts.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick G. Hamlin whose telephone number is (571) 272-1317. The examiner can normally be reached on Monday-Fridays from ~8:30 AM to 5:00 PM.

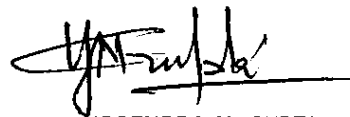
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick G. Hamlin

6/13/04



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